

To: The San Luis Obispo Board of Supervisors

CC: Dan Buckshi, County Executive Officer

From: Paul J. Yoder and Karen Lange

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RE: 2014 Water Legislation

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The Legislature has adjourned the 2013-2014 Legislative session, sending a few hundred bills to the desk of Governor Brown and once again enacting an on-time budget. Under Governor Brown's direction, the State's finances have improved dramatically, and in fact the State closed out the FY 2013-2014 year "in the black" for the first time in 7 years, which is a notable accomplishment, given the years of difficult budgets and painful choices. Furthermore, the Governor has remained steadfast in his commitment to resist expanded or new programs which would place pressures on the General Fund. Counties have been spared any new costly mandates or realignments in this most recent Budget.

The most significant policy matter debated in the legislature this year centered on water: the proposed 2014 water bond, and ground water management.

San Luis Obispo County positioned itself on the cutting edge of groundwater management, by supporting legislation introduced by Assemblymember Achadjian to establish a unique governance structure over the management of the Paso Robles Groundwater Basin. The County remained very active in the Legislature this year, closely monitoring the other groundwater proposals as well as tracking the water bond proposals that worked their way through the Legislative process. The water bond proposals finally coalesced into two identical bills (one Senate and one Assembly bill), one of which (AB 1471) was signed by the Governor. As a result, Proposition 1 on the November 2014 ballot is the revised (and smaller) water bond.

### **AB 2453 (Achadjian)**

AB 2453 authorizes, under the California Water District Law, the governing board structure and powers of the Paso Robles Basin Water District in San Luis Obispo County, with the District's boundaries to be established by the San Luis Obispo County Local Agency Formation Commission. AB 2453 will require the district to be formed in accordance with the Cortese-

Knox-Hertzberg Local Government Reorganization Act of 2000. Key provisions of this measure:

**Board of Directors Makeup:** This bill establishes the governing board of directors must include nine landowner members, six of whom shall be elected by landowners, and three of whom shall be elected by resident-voters. Of the six directors elected by landowners, two directors must be elected by landowners owning 400 or more acres of land in the district, two directors must be elected by landowners owning between 40 and 399 acres of land in the district, and two directors must be elected by landowners owning less than 40 acres of land in the district.

Landowner-voting is weighted, with each landowner-voter casting one vote for each acre of land owned by the voter within the district. Candidates for the landowner seats can be drawn from any class of landowner. The three remaining landowner seats shall be elected from among all eligible voters who reside within the district. The landowners must be registered voters residing in the district.

**District Powers:** The board of directors of the district may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the territory of the district. This includes developing a plan, and establishing rules for extraction and possibly charges associated with groundwater extraction that would be tied to how much groundwater is removed from the basin.

### **Statewide Groundwater Management Legislation**

As expected after the Governor declared a drought and included groundwater management in his January budget proposal, the Legislature approved a three bill package of groundwater management bills, and the Governor signed them in mid-September. AB 1739, SB 1168 and SB 1319 impose significant new groundwater management responsibilities upon local agencies, and also provide new authority for the State Water Resources Control Board (SWRCB) to enforcement groundwater management.

SB 1168 requires all basins designated by the Department of Water Resources (DWR) as either high or medium priority basins to have a groundwater management plan in place by January 31, 2020. (High and medium priority basins that are *not* subject to critical conditions of overdraft must be managed by January 31, 2022.)

SB 1168 allows a local agency, which is defined as “a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin,” to elect to be a groundwater sustainability agency (GSA). The statutory construct here places counties first in line to choose to become the GSA. Other options include JPAs or other types of partnerships.

SB 1168 authorizes GSAs to do all of the following:

- Require groundwater well registration;
- Authorizes measurement of groundwater extractions;
- Ensure filing annual extractions reports regulate groundwater extractions by imposing well spacing requirements, limiting extractions, and establishing extraction allocations.
- Requires groundwater sustainability plans to include measurable objectives to achieve the “sustainability goal” in the basin within 20 years of implementation.

### **Department of Water Resources and the State Water Resources Control Board – Their Role**

AB 1739 tasks DWR with review of groundwater sustainability plans to ensure they conform to the requirements set forth in SB 1168 and requires DWR to adopt regulations for evaluating groundwater sustainability plans, the implementation of groundwater sustainability plans, and coordination agreements pursuant to this chapter. AB 1739 also requires DWR to review groundwater sustainability plans every five years.

AB 1739 and SB 1319 together set up the new regulatory authorities for the SWRCB. Of significant concern is that the Board can designate groundwater basins as probationary basins under certain circumstances. This is the “stick” that the State is giving SWRCB in order to incentivize local agencies to take on the management role. If a basin is designated as probationary, the SWRCB can set up an interim plan for regulation of groundwater extractions. The plan could include restrictions on groundwater extraction, a physical solution, and principles for the administration of rights to surface water connected to the basin. The SWRCB can also attach fees to their role, which will likely be passed on to the local agencies and local users.

### **The Water Bond**

A perennial issue that reached new levels of urgency is how much money the State should be spending on new water storage, and whether or not it should be continuously appropriated or subject to annual appropriation by the Legislature. Republicans remained steadfast in their insistence that any revised water bond include \$3 billion for storage, and that it must be continuously appropriated. Ultimately, Republicans secured \$2.7 billion for continuously appropriated water storage funding in the final version of the revised water bond that will appear before the voters in November. Seemingly, after this agreement was reached, the remainder of the water bond negotiation points were resolved. A short, high-level summary of the various pots of funds in the bond is as follows:

- Regional Water Reliability - \$810M
- Safe Drinking Water - \$520M
- Water Recycling - \$725M
- Groundwater Sustainability - \$900M (including \$100 million for technical assistance for local governments.)
- Watershed Protection, Watershed Ecosystem Restoration, State Settlements - \$1.495B
- Storage - \$2.7B
- Statewide Flood Management - \$395M

In addition, early in the session, the legislature passed a package of drought relief funding which promised almost \$700 million in immediate drought relief. The Governor's Office of Planning and Research is leading the Administration's efforts on these fronts, in coordination with the various departments, such as the Office of Emergency Services and the California Department of Public Health.

We are continuously working with the County's Public Works staff regarding a pending application to draw down funds for a local grant that would assist with drought relief for local communities and facilities in the County.

### **Looking Forward**

Recently, the United States Environmental Protection Agency (EPA) heavily critiqued the Bay Delta Conservation Plan (BDCP), which proposes a new form of conveying water through the Bay-Delta Estuary. The EPA's criticism has certainly delayed progress on the BDCP, at least into early 2015. Water contractors in California as well as the State Department of Water Resources contend that the BDCP can be and will be fixed and that progress will be made in processing related environment review documents.

2015 will most likely also witness the introduction of a new parks / resources bond bill by the incoming Senate Pro Tem Kevin de Leon. If the voters approve Proposition 1, it is also possible that another water bond could be placed before the voters as early as 2016 but possibly in 2018.

Lastly, and perhaps most importantly, in fact no one actually knows how much precipitation the various parts of California will see this winter. Another year of below average rainfall would have ramifications for every issue identified in this report, and other water-related issues (e.g. conservation) as well. Even a slightly above average probably will not forestall the issue of "water" remaining front stage as the next legislature takes its seats and Governor Jerry Brown heads into his fourth and final term.